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Paper No. 6

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OCT 16 2002

OFFICE OF PETITIONS

In re Application of :
Theilman and Pricone :
Application No. 10/015,319 : DECISION REFUSING STATUS
Filed: 12 December, 2001 : UNDER 37 CFR 1.47(b)
Attorney Docket No. NV 2914-AC-C1 :

This is in response to the petition filed on 7 June, 2002, under 37 CFR 1.47(b).

The petition is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(b)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor.

FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.
Extensions of time may be obtained in accordance with 37 CFR 1.136(a).

The above-identified application was filed on 12 December, 2001, without an executed oath or declaration.

Accordingly, on 7 January, 2002, Initial Patent Examination Division mailed a Notice To File Missing Parts of Nonprovisional Application requiring an executed oath or declaration and a surcharge for its late filing.

In response, on 7 June, 2002, the present petition was filed, accompanied by a three (3) month extension of time.

Petitioners assert that a copy of the application papers was sent

both non-signing inventors. Joint inventor Pricone stated orally to Janice Jackson, Administrative Assistant at Avery Dennison Corporation, that he would not sign the declaration until he received a reply to an email from Avery Dennison's patent counsel. Further attempts to reach Pricone were unsuccessful. Additionally, joint inventor Thielman did not return a signed declaration.

A grantable petition under 37 CFR 1.47(b) requires:

- (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);
- (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;
- (3) the petition fee;
- (4) a statement of the last known address of the non-signing inventor;
- (5) proof of proprietary interest, and
- (6) proof of irreparable damage.

The petition lacks item (2).

As to item (2), an oath or declaration for the patent application in compliance with 37 CFR 1.63 and 1.64 has not been presented. A declaration in compliance with 37 CFR 1.63, 1.64, and 1.67 must be presented, signed by all of the signing inventors, if any. If no inventor(s) will sign the declaration, the declaration may be signed on behalf of the inventor by an assignee. The oath or declaration must be signed by an officer of the corporation (president, vice president, secretary, or treasurer) on behalf of and as agent for the non-signing inventor(s). The officer must identify his/her title in the declaration, as well as his/her mailing address, residence, if the applicant lives at a different location from where he or she customarily receives mail, as well as the citizenship of individual signing on behalf of the non-signing inventor. If the oath or declaration is not signed by an officer of the corporation, then proof of authority of the person signing on behalf of the corporation must be submitted.¹

Further correspondence with respect to this matter should be addressed as follows:

By mail: Assistant Commissioner for Patents


¹MPEP 409.03(b).

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Telephone inquiries related to this decision should be directed
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